IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 31ST AUGUST 2007 / 9TH BHADRA 1929

WP(C).No. 26291 of 2007(E)

PETITIONER:

H.M.T.MACHINE TOOLS LTD.,
H.M.T.COLONY P.O., KALAMASSERY, REPRESENTED
BY JOINT GENERAL MANAGER (FINANCE) K.R.BHAT.

BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
SMT.MARIAM MATHAI

RESPONDENTS:

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1. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM, KOCHI-682 015.

2. THE ASSISTANT COMMISSIONER-I,
SPECIAL CIRCLE-III, ERNAKULAM,
KOCHI-682 015.

3. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, ERNAKULAM.

BY GOVT. PLEADER, SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V..GIRI, J

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W.P.(C) No.26291 of 2007

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Dated this the 31st day of August, 2007

JUDGMENT

The petitioner which is a public sector undertaking of the Central Government, aggrieved by Ext.P4 order of assessment has preferred Ext.P5 appeal before the 1st respondent. Application for stay of collection of disputed tax, as Ext.P5(a), has also been preferred therein. The appeal along with petition for stay are seen to have been preferred on 21.4.07. Apparently, without orders being passed on petition for stay, notice under Revenue Recovery Act, Ext.P6 has been issued by the 3rd respondent. In these circumstances, the writ petition has been filed.

2. The learned Senior Counsel appearing on behalf of the petitioner Sri.Pathrose Mathai makes available a copy of the proceedings of the Board for Industrial and Financial Reconstruction registering the application filed by the company under the provisions of the Sick Industrial Companies (Special Provisions) Act. The learned counsel for the petitioner contends that since the company's application for registration is pending consideration before the Board, there is a statutory interdiction against recovery steps against the said company except in accordance with orders in that regard passed by

the Board.

3. I have heard the learned counsel for the petitioner as also the learned Government Pleader.

4. In the facts and circumstances of this case, this writ petition is disposed of directing the 1st respondent to consider and pass orders on application for stay - Ext.P5(a) within a period of one month from the date of receipt of a copy of this judgment. The petitioner shall place before the Appellate Authority, the copies of the proceedings of the BIFR referred to by the learned counsel for the petitioner. The Appellate authority shall take note of any such proceedings of BIFR also while passing orders on Ext.P5(a). Until orders are passed on Ext.P5(a) enforcement of Ext.P6 shall be kept in abeyance.

This writ petition is disposed of as above.

(V.GIRI, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE